IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3195 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHRAMJIVI MAJOOR MANDAL UNION

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3195 of 1987
MS.ANAR PARIKH FOR M/S TRIVEDI & GUPTA
for Petitioners.
MR NIRAV THAKKAR, AGP. for Respondents.

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 10/08/2001

ORAL JUDGEMENT

1 This petition is filed by one Shramjivi Majoor Mandal which is stated to be a union of workmen operating

in the City Road and Building Sub-division of the Public Works Department of District Junagadh. It is the say of the petitioners that out of the various workmen employed by the respondents at various places in the district of Junagadh, 19 workmen engaged in various activities are issued notice under section 25F of the Industrial Disputes Act,1947. A copy of the said notice dated 3/6/1987 (Annexure "B" to the petition) states that the 19 workmen will be discharged from service with effect from 4/7/1987.

2 The petitioners have challenged the aforesaid notice stating that the same is illegal, arbitrary and against the provisions of Industrial Disputes Act,1947 as well as violative of Articles 14, 19 and 21 of the Constitution of India. It is also prayed that the impugned notice dated 3/6/1987 be quashed and set aside as being violative of the provision of Section 25N of the Industrial Disputes Act,1947 as well as violative of Articles 14, 19 and 21 of the Constitution of India.

3 The petitioners have averred that the concerned 19 workmen have put in more than five years of continuous service though the respondents have termed them as daily wagers. On behalf of the respondents Deputy Executive Engineer, City (R&B) Sub-division, Junagadh has filed affidavit-in-reply dated 23/11/1987, wherein each of the factual averment made by the petitioners have been disputed and denied.

4 We have heard learned Advocates appearing on behalf of the respective parties. We find that the disputed questions of fact are involved in this petition and it would not be possible for this Court to enter into that arena. However, in view of the fact that when the petition was admitted on 15/7/1987, the petitioner workmen were protected by the order of interim relief and since then 19 workmen have been employed by the respondents and continue to remain employed till this date.

5 In view of the aforesaid facts and circumstances of the case, we quash the impugned notice dated 3/6/1987 (Annexure "B"), as it would not be proper to relegate the workmen to the appropriate Forum to pursue the alternative remedy at this length of time. It would be open to the respondents to take appropriate action in accordance with law as may be permissible.

6 This petition is disposed of accordingly. Rule is made absolute to the aforesaid extent. No order as to

costs.

Sd/-
(D.A.Mehta, J)

m.m.bhatt